

AMENDED IN ASSEMBLY JUNE 23, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 20, 2005

SENATE BILL

No. 559

Introduced by Senator Torlakson

February 18, 2005

An act to amend Sections 51222, ~~51241, and 60800~~ of and 51241 of, and to add Article 9.5 (commencing with Section 44620) to Chapter 3 of Part 25 to, the Education Code, relating to physical education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 559, as amended, Torlakson. Physical education.

Existing law establishes various professional development and training programs for certificated employees of local educational agencies.

This bill would establish the Physical Education Professional Development Program, to be administered by the Superintendent of Public Instruction with the approval of the State Board of Education. Under the program, a school district that maintains kindergarten or any of grades 1 to 8, inclusive, would be eligible to apply for, and to receive, and the Superintendent would be authorized to allocate, incentive funding, upon the submission of a proposal, as specified, to provide training in physical education to no more than one teacher at the school district, through professional development programs conducted by institutions of higher education or a by a provider of training approved by the department. The bill would appropriate _____ for these purposes.

Existing law requires a pupil in grades 7 to 12, inclusive, to attend physical education courses for no less than 400 minutes each 10 schooldays.

This bill would define a physical education class as one in which each pupil is required to actively participate.

Existing law permits a pupil in grade 10, 11, or 12 to be excused from physical education classes, as provided, in order to participate in automobile driver training.

This bill would delete those provisions.

Existing law authorizes the governing board of a school district and the office of the county superintendent of schools of a county to grant a permanent exemption from courses in physical education if the pupil complies with one of several criteria, including, among others, that the pupil is 16 years of age or older and has been enrolled in grade 10 for one academic year or longer.

This bill would delete that exemption with respect to a pupil who is 16 years of age or older and has been enrolled in grade 10 for one academic year or longer, and would make conforming changes.

~~Existing law requires the governing board of a school district maintaining any of grades 5, 7, and 9 to administer to each pupil in those grades a physical performance test designated by the State Board of Education.~~

~~This bill would require the governing boards of school districts to also administer those physical performance tests to pupils in grade 3. By extending these tests to pupils in grade 3, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: ~~no~~yes. Fiscal committee: yes. State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) A lack of adequate physical activity and appropriate nutrition has greatly contributed to the epidemic levels of obesity found in California.

(b) Obesity is a key risk factor associated with a number of health problems including heart disease, diabetes, some cancers, hypertension, gallbladder disease, musculoskeletal disorders, and mental health.

(c) According to the State Department of Health Services, the costs of obesity in California are estimated to equal more than \$21.7 billion in health care costs, workers' compensation costs, and lost productivity.

(d) According to the State Department of Education, healthy, active, and well nourished children are more likely to attend school and are more prepared and motivated to learn.

(e) Healthy children are also more likely to grow up as healthy adults and are less likely to develop costly and harmful health problems.

(f) California's youth have the potential to advance the generational change necessary for reversing and preventing the devastating consequences of such an epidemic.

(g) Physical education can provide for necessary physical activity while motivating a child to maintain healthy eating habits and to engage in regular physical activity as an aspect of one's lifestyle.

(h) The State Board of Education has recently adopted content standards for physical education, and, to the extent resources are available, it is the intent of the Legislature to provide physical education teachers with appropriate training that aligns with these standards.

SEC. 2. Article 9.5 (commencing with Section 44620) is added to Chapter 3 of Part 25 of the Education Code, to read:

1 *Article 9.5. The Physical Education Professional*
2 *Development Program*

3
4 44620. (a) *The Physical Education Professional*
5 *Development Program is hereby established, and shall be*
6 *administered by the Superintendent with the approval of the State*
7 *Board of Education.*

8 (b) *It is the intent of the Legislature in enacting this article to*
9 *provide professional development in physical education for no*
10 *more than one teacher at each local educational agency that*
11 *maintains kindergarten or any of grades 1 through 8.*

12 (c) *This program is intended to serve teachers employed in*
13 *public schools for the purpose of teaching physical education to*
14 *pupils in kindergarten or any of grades 1 through 8, inclusive.*

15 44621. *As a condition of receipt of funds under the program,*
16 *a local educational agency shall submit to the State Board of*
17 *Education a certified assurance, signed by the appropriate local*
18 *educational agency official and approved by the governing body*
19 *of the agency, that contains its proposal that clearly*
20 *demonstrates that the local educational agency's training*
21 *curriculum was approved by the state board or that the local*
22 *educational agency contracted with a provider whose training*
23 *curriculum was approved by the state board.*

24 44622. *As a condition of receipt of funds under the program,*
25 *a local educational agency shall submit to the State Board of*
26 *Education a certified assurance, signed by the appropriate local*
27 *educational agency official and approved by the governing body*
28 *of the agency, that contains its proposal that clearly*
29 *demonstrates that the local educational agency's training*
30 *curriculum was approved by the state board or that the local*
31 *educational agency contracted with a provider whose training*
32 *curriculum was approved by the state board.*

33 44623. *The State Board of Education shall only approve*
34 *training curriculum that is consistent with state-adopted model*
35 *content standards for physical education and with the*
36 *curriculum frameworks on physical education for kindergarten*
37 *and grades 1 to 8, inclusive, that are adopted by the state board.*

38 44624. *A local education agency may receive up to \$____,*
39 *and no less than \$____, for the training of the teacher who*

1 *receives professional development on physical education under*
2 *the program.*

3 44625. *The sum of _____ is hereby appropriated from the*
4 *General Fund to the department for purposes of the program. Of*
5 *the amount appropriated, the sum of _____ is available*
6 *for expenditure in the 2005-06 fiscal year, and the sum of*
7 *_____ is available for expenditure in the 2006-07*
8 *fiscal year.*

9 44626. *The State Board shall authorize the Superintendent to*
10 *prepare, and the state board shall adopt, regulations for the*
11 *implementation and monitoring of the program.*

12 ~~SEC. 2.—~~

13 SEC. 3. Section 51222 of the Education Code is amended to
14 read:

15 51222. (a) A pupil, except a pupil excused or exempted
16 pursuant to Section 51241, shall be required to attend a physical
17 education class for a total period of time of not less than 400
18 minutes each 10 schooldays. A physical education class is one in
19 which each pupil is required to actively participate.

20 (b) The governing board of a school district that maintains a
21 high school and that elects to exempt a pupil from required
22 attendance in physical education courses pursuant to subdivision
23 (b) of Section 51241 shall offer that pupil a variety of elective
24 physical education classes of not less than 400 minutes each 10
25 schooldays.

26 ~~SEC. 3.—~~

27 SEC. 4. Section 51241 of the Education Code, as amended by
28 Section 2 of Chapter 459 of the Statutes of 2003, is amended to
29 read:

30 51241. (a) The governing board of a school district or the
31 office of the county superintendent of schools of a county may
32 grant temporary exemption to a pupil from courses in physical
33 education, if the pupil is either of the following:

34 (1) Ill or injured and a modified program to meet the needs of
35 the pupil cannot be provided.

36 (2) Enrolled for one-half, or less, of the course work normally
37 required of full-time pupils.

38 (b) The governing board of a school district or the office of the
39 county superintendent of schools of a county may, with the
40 consent of a pupil, grant the pupil exemption from courses in

1 physical education for two years any time during grades 10 to 12,
2 inclusive.

3 (c) The governing board of a school district or the office of the
4 county superintendent of schools of a county may grant
5 permanent exemption from courses in physical education if the
6 pupil complies with either of the following:

7 (1) Is enrolled as a postgraduate pupil.

8 (2) Is enrolled in a juvenile home, ranch, camp, or forestry
9 camp school where pupils are scheduled for recreation and
10 exercise pursuant to the requirements of Section 4346 of Title 15
11 of the California Code of Regulations.

12 (d) A pupil exempted under subdivision (b) may not be
13 permitted to attend fewer total hours of courses and classes if he
14 or she elects not to enroll in a physical education course than he
15 or she would have attended if he or she had elected to enroll in a
16 physical education course.

17 (e) Notwithstanding any other law, the governing board of a
18 school district may administer to pupils in grades 10 to 12,
19 inclusive, the physical performance test required in 9th grade
20 pursuant to Section 60800.

21 (f) This section shall remain in effect only until June 30, 2007,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before June 30, 2007, deletes or extends that date.

24 ~~SEC. 4.—~~

25 *SEC. 5.* Section 51241 of the Education Code, as added by
26 Section 3 of Chapter 459 of the Statutes of 2003, is amended to
27 read:

28 51241. (a) The governing board of a school district or the
29 office of the county superintendent of schools of a county may
30 grant temporary exemption to a pupil from courses in physical
31 education, if the pupil is either of the following:

32 (1) Ill or injured and a modified program to meet the needs of
33 the pupil cannot be provided.

34 (2) Enrolled for one-half, or less, of the work normally
35 required of full-time pupils.

36 (b) (1) The governing board of a school district or the office
37 of the county superintendent of schools of a county may, with the
38 consent of a pupil, if the pupil has passed the physical
39 performance test administered in the 9th grade pursuant to
40 Section 60800, grant the pupil exemption from courses in

1 physical education for two years any time during grades 10 to 12,
2 inclusive.

3 (2) Pursuant to Sections 51210, 51220, and 51222, physical
4 education is required to be offered to all pupils, and schools are,
5 therefore, required to provide adequate facilities and instructional
6 resources for that instruction. In this regard, paragraph (1) shall
7 be implemented in a manner that does not create a new program
8 or impose a higher level of service on a local educational agency.
9 Paragraph (1) does not mandate any overall increase in staffing
10 or instructional time because, pursuant to subdivision (d), pupils
11 are not permitted to attend fewer total hours of class if they do
12 not enroll in physical education. Paragraph (1) does not mandate
13 any new costs because any additional physical education
14 instruction that a local educational agency provides may be
15 accomplished during the existing instructional day, with existing
16 facilities. Paragraph (1) does not prevent a local educational
17 agency from implementing any other temporary or permanent
18 exemption authorized by this section.

19 (c) The governing board of a school district or the office of the
20 county superintendent of schools of a county may grant
21 permanent exemption from courses in physical education if the
22 pupil complies with either of the following:

23 (1) Is enrolled as a postgraduate pupil.

24 (2) Is enrolled in a juvenile home, ranch, camp, or forestry
25 camp school where pupils are scheduled for recreation and
26 exercise pursuant to the requirements of Section 4346 of Title 15
27 of the California Code of Regulations.

28 (d) A pupil exempted under paragraph (1) of subdivision (b)
29 may not attend fewer total hours of courses and classes if he or
30 she elects not to enroll in a physical education course than he or
31 she would have attended if he or she had elected to enroll in a
32 physical education course.

33 (e) Notwithstanding any other law, the governing board of a
34 school district may also administer to pupils in grades 10 to 12,
35 inclusive, the physical performance test required in 9th grade
36 pursuant to Section 60800. A pupil who passes this physical
37 performance test in any of grades 10 to 12, inclusive, is eligible
38 for an exemption pursuant to subdivision (b).

39 (f) This section shall become operative on July 1, 2007.

1 ~~SEC. 5. Section 60800 of the Education Code is amended to~~
2 ~~read:~~

3 ~~60800. (a) During the month of February, March, April, or~~
4 ~~May, the governing board of each school district maintaining any~~
5 ~~of grades 3, 5, 7, and 9 shall administer to each pupil in those~~
6 ~~grades the physical performance test designated by the state~~
7 ~~board. Each pupil who is physically disabled and each pupil who~~
8 ~~is physically unable to take all of the physical performance test~~
9 ~~shall be administered as much of the test as his or her condition~~
10 ~~will permit.~~

11 ~~(b) Upon request of the department, a school district shall~~
12 ~~submit, at least once every two years, the results of its physical~~
13 ~~performance testing.~~

14 ~~(c) The department shall compile the results of the physical~~
15 ~~performance test and submit a report every two years, by~~
16 ~~December 31, to the Legislature and Governor that standardizes~~
17 ~~the data, tracks the development of high-quality fitness programs,~~
18 ~~and compares the performance of California's pupils with~~
19 ~~national performance, to the extent that funding is available.~~

20 ~~(d) Pupils shall be provided with their individual results after~~
21 ~~completing the physical performance testing. The test results may~~
22 ~~be provided orally as the pupil completes the testing.~~

23 ~~(e) The governing board of a school district shall report the~~
24 ~~aggregate results of its physical performance testing administered~~
25 ~~pursuant to this section in their annual school accountability~~
26 ~~report card required by Sections 33126 and 35256.~~

27 ~~SEC. 6. If the Commission on State Mandates determines that~~
28 ~~this act contains costs mandated by the state, reimbursement to~~
29 ~~local agencies and school districts for those costs shall be made~~
30 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
31 ~~4 of Title 2 of the Government Code.~~